



PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference 40302-MR		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEAA16)	
International application No. PCT/ES 02/00102	International filing date (day/month/year) 07.03.2002	Priority date (day/month/year) 07.03.2002	
International Patent Classification (IPC) or both national classification and IPC B65D81/36			
Applicant TOURVISION SA et al.			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 2 sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input checked="" type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>			
Date of submission of the demand 26.09.2003		Date of completion of this report 29.07.2004	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Cazacu, C Telephone No. +49 89 2399-2645 	

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EXAMINATION REPORT**

International application No. **PCT/ES 02/00102**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-5 as originally filed

Claims, Numbers

1-4 received on 09.07.2004 with letter of 06.07.2004

Drawings, Sheets

1/6-6/6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the International application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 3

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 3 are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

☒ the claims, or said claims Nos. 3 are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1,2,4
	No: Claims	
Inventive step (IS)	Yes: Claims	1,2,4
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1,2,4
	No: Claims	

2. Citations and explanations

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III.

The embodiments of the invention shown in figures 6 and 7 do not fall within the scope of the claims. This inconsistency between the claims and the description leads to doubt concerning the matter for which protection is sought, thereby rendering the claims unclear (Article 6 PCT).

Further, claim 3 is not supported by the description as required by Article 6 PCT, as its scope is broader than justified by the description and drawings. The reasons therefor are the following: Claim 3 discloses both pairs of lobes placed at the ends of said parts, while disclosing also a plurality of fins 14. The two features belong to separate embodiments.

V.

1. The set of claims comprises several linguistic inaccuracies/unclearities such as "being said" (such as) "equipped by" (provided with), "being capable said holes" (said holes being capable), "in such a way to adapt to the shape of the case" (the lobes are adapted to, they do not adapt in an active way) .

However, leaving aside said unclarities, following remarks can be made.

2. The present application appears to meet the requirements of Article 33(2) and (3) PCT, because the subject-matter of claim 1 is new and appears to involve an inventive step.

Document ES-U-231908 (D1), which is regarded as the closest prior art, discloses a container for a toy from which the subject-matter of claim 1 differs in that a) the holes of the case are placed in at least two concentric, substantially parallel circumferences, and b) the lobes of parts 3, 4, 5 are provided two by two for being attached to said holes.

Regarding the insertion of the term "almost parallel" (construed as "substantially parallel"), it is deemed that Figs. 1, 5 provide sufficient basis.

None of the other documents cited in the International Search Report discloses the features in the characterising part of claim 1.

In document D1, just like in ES-U-232 307, ES-U-232 306 and US-A-4 106 657, the

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connecting elements are provided with only one connecting pin.

Although the application is silent on the effect of the twin pins of claim 1, it is deemed that the provision of said twin pin connecting means solved the technical problem of better stability of the structure, such that the respective features imply also a technical character.

Consequently, the subject-matter of claim 1 is not disclosed by any prior art document taken alone or in any relevant combination with other prior art document and appears to meet the requirements of Article 33 (2) and (3) PCT.

Claims 2 and 4 depend on claim 1 and as such meet the requirements of Article 33 (2) and (3) PCT.

Further, the invention claimed in claims 1, 2, 4 is industrially applicable in the sense of Article 33 (4) PCT.

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